



09-24-02

DAC #5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Docket No. 15-XT-4847)

In the Application of:

RICHARD ROFFERS

Serial No. 09/666,000

Filed: September 20, 2000

For: Method and Apparatus for Reducing High
Voltage Breakdown Events in X-Ray Tubes

Examiner: Craig E. Church

Group Art Unit: 2882

EXPRESS MAIL NO. EL 848999441US

DATE: September 23, 2002

PETITION TO ACCORD FILING DATE
FOR EXPRESS MAIL CORRESPONDENCE
NOT RECEIVED BY P.T.O.
(37 C.F.R. § 1.10(e))

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sirs:

1. This is a petition to accord a filing date of December 12, 2001, which is the date the Amendment in response to the Official Action dated 09/13/2001 was deposited with the U.S.P.S. with proper postage. This petition is in response to a Notice of Abandonment dated August 27, 2002.

RECEIVED

SEP 26 2002

OFFICE OF PETITIONS

CERTIFICATION UNDER 37 C.F.R §§ 1.8(a) and 1.10

I hereby certify that, on information and belief, on the date shown below, an Amendment was filed with the U.S.P.T.O. in response to the Office Action dated September 13, 2001, as being:

December 12, 2001

under 37 C.F.R. §1.10 as "Express Mail Post Office to Addressee" Mailing Label No. EL 849009143 US".

9/23/02

Date

Dean Small

Signature

Dean D. Small

(type or print name of person certifying)

2. Submitted herewith is the statement of Dean D. Small to when the discrepancy was discovered and establishing that this petition is being filed promptly thereafter. 37 C.F.R. § 1.10(e)(1).
3. The following attached papers are also submitted under 37 C.F.R. §1.10(e)(3) for this petition:
 - a) A true copy of the originally-deposited paper(s) or fee(s).
 - b) A true copy of the returned Post Card showing receipt of these papers by the P.T.O.
 - c) A true copy of the canceled check showing the date for the fee payment by this correspondence.
 - d) A true copy of the "Express Mail" mailing label showing the "date-in."

and, also attached hereto, is a statement, signed by the person who deposited the documents as "Express Mail" with the USPS, setting forth the date and time of deposit, and declaring that the copies of the correspondence, "Express Mail" mailing label, and returned postcard receipt accompanying this petition are true copies of the correspondence, mailing label and returned postcard receipt originally mailed or received.

REMARKS

The Office Action response in question was sent to the PTO on December 12, 2001 in a timely manner by Express Mail with a post card receipt and a check for the proper amount due.

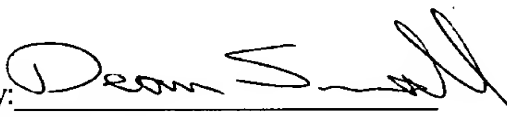
Soon after, we received the post card receipt stamped by the PTO and the canceled check. A copy of the post card receipt, canceled check, and the Express Mail receipt are enclosed. We received a Notice of Abandonment, dated August 27, 2002, on September 4, 2002. Upon calling Mr. Robert Kim, the supervisor of the Examiner in this case, Mr. Kim pulled the file in question informing a member of our firm that the response in question was indeed NOT in the file. Mr. Kim was advised that we would send this petition along with the originally-deposited Office Action response and he indicated that he would hold onto the file in question until this matter is resolved.

In view of the foregoing, it is respectfully submitted that a filing date of December 12, 2001 be accorded this Office Action response and that the abandonment be withdrawn and prosecution on the merits resumed.

Please charge any additional fees or credit overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,
McANDREWS, HELD & MALLOY, LTD.

Date: September 23, 2002

By: 
Dean D. Small
Reg. No. 34,730
Attorney for Applicant

CUSTOMER NUMBER: 023446
McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street
Chicago, Illinois 60661
Telephone: (312) 775-8000